

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA

DOCKET NO. 2021-89-E
DOCKET NO. 2021-90-E

July 23, 2021

IN RE:)	
Duke Energy Carolinas, LLC's and)	
Duke Energy Progress, LLC's 2021)	STIPULATION OF
Avoided Cost Proceeding Pursuant to)	AGREEMENT
S.C. Code Ann. Section 58-41-20(A))	
)	

This Stipulation of Agreement (“Agreement”) is made by and among the Carolinas Clean Energy Business Association (“CCEBA”), Duke Energy Carolinas, LLC (“DEC”), Duke Energy Progress, LLC (“DEP,” and together with DEC, the “Companies”), the Southern Alliance for Clean Energy (“SACE”), the South Carolina Coastal Conservation League (“CCL”), and the South Carolina Office of Regulatory Staff (“ORS”) (collectively referred to as the “Parties” or sometimes individually as a “Party”).

WHEREAS, the above-captioned proceeding has been established by the Public Service Commission of South Carolina (“Commission”) pursuant to the procedures in S.C. Code Ann. § 58-41-20 to review the Companies’ Joint Application for approval of updated avoided cost rates and terms (“Joint Application”) and the Parties to this Agreement are parties of record in the above-captioned Dockets;

WHEREAS, the Commission has not yet approved an Integrated Resource Plan (“IRP”) for the either of the Companies under the requirements of S.C. Code Ann. § 58-37-40, and any Final Order of the Commission approving, disapproving, or modifying such an IRP may warrant updates to the Companies’ avoided cost calculations or rates;

WHEREAS, ORS is charged by law with the duty to represent the public interest of South Carolina pursuant to S.C. Code Ann. § 58-4-10(B);

WHEREAS, the Parties have varying legal positions regarding the issues in this case; and

WHEREAS, the Parties have engaged in discussions to determine if entering a stipulation regarding the issues pending in this proceeding would be in their best interests;

WHEREAS, following those discussions the Parties have each determined that their interests, and ORS has determined that the public interest, would be best served by entering a stipulation regarding all issues pending in this proceeding under the terms and conditions set forth below:

**A. STIPULATION OF AGREEMENT, TESTIMONY AND WAIVER OF CROSS
EXAMINATION**

A.1 The Parties agree to stipulate into the record before the Commission the pre-filed direct and rebuttal testimony and exhibits of DEC/DEP Witnesses Glen A. Snider and David B. Johnson, the pre-filed testimony of DEC/DEP Witnesses Snider and Johnson in support of the Agreement, and the pre-filed direct testimony and exhibits of ORS Witness Brian Horii, and the pre-filed direct testimony of ORS Witness Gretchen Pool without objection or cross-examination by the Parties. The Parties reserve the right to engage in re-direct of witnesses as may be necessary to respond to issues raised by the examination of their witnesses, if any, by parties that are not signatories to this Agreement, or the Commission.

A.2 The Parties agree that no other evidence will be offered in the proceeding by the Parties other than the stipulated testimony and exhibits and this Agreement unless the additional evidence is to support the Agreement or to respond to the testimony of or evidence offered by parties that are not signatories to this Agreement, or unless the additional evidence consists of changes comparable to that which would be presented via an errata sheet or through a witness noting a correction or clarification, or consists of a witness adopting the testimony of a witness referenced in Paragraph A.1 herein, if permitted by the Commission. The Parties agree that nothing herein will preclude each party from advancing its respective positions in the event that the Commission does not fully approve the Agreement, without modification.

B. TERMS OF STIPULATION

B.1 As a compromise to positions advanced by the Parties, the Parties agree to the proposal set out immediately below, and this proposal is hereby adopted, accepted, and acknowledged as the agreement of the Parties.

B.2 Without prejudice to the position of any Party in future proceedings, the Parties agree to accept DEC/DEP's Standard Offer PPA, Standard Offer Terms and Conditions, and Notice of Commitment Form, as pre-filed with this Commission as exhibits to DEC/DEP Witness Johnson's direct testimony.

B.3 Without prejudice to the position of any Party in future proceedings, the Parties agree to accept DEC/DEP's avoided cost methodology, as set forth in the pre-filed direct testimony and exhibits of DEC/DEP Witness Snider as amended by the pre-filed stipulation testimony and exhibits of DEC/DEP Witness Snider in support of the Agreement, which shall adopt the DEC seasonal allocation of capacity value recommended by ORS Witness Horii.

B.4 Without prejudice to the position of any Party in future proceedings, the Parties agree to accept DEC/DEP's Standard Offer Tariff and Large QF Tariff, as pre-filed with this Commission as exhibits to the pre-filed stipulation testimony of DEC/DEP Witness Johnson in support of the Agreement, which shall adopt the DEC summer capacity allocation recommended by ORS witness Brian Horii.

B.5 Without prejudice to the position of any Party in future proceedings, the Parties agree to accept DEC/DEP's Large QF PPA as pre-filed with this Commission as an exhibit to DEC/DEP witness Johnson's testimony in support of the Agreement.

B.6 The Parties agree that DEC/DEP shall continue to update the Large QF Tariff in a manner consistent with Order Nos. 2019-881(A) and 2020-315(A). Consistent with Order No. 2020-315(A), DEC/DEP shall provide detailed information regarding those updated inputs on request to QFs that are negotiating a PPA with DEC or DEP, and upon request to CCEBA. This Agreement shall not preclude any Party from bringing to the Commission any dispute regarding the application of the Companies' Integrated Resource Plans to the Large QF Tariffs.

B.7 Consistent with the Companies' commitments in their Joint Application in this proceeding, CCEBA and the Companies commit to negotiate in good faith on revisions to the DEC/DEP Notice of Commitment Form, and in particular the standard for establishing a Legally Enforceable Obligation as reflected on that Form, in light of changes to the South Carolina Generator Interconnection Procedures and Appendix Duke CS approved by the Commission in Order No. 2021-439 issued in Docket No. 2019-326-E on June 18, 2021. If the Federal Energy Regulatory Commission ("FERC") approves the requested complementary revisions to the Companies' Joint Open Access Transmission Tariff, CCEBA and the Companies shall submit proposed revisions to the Notice of Commitment Form, jointly or separately, to the Commission

for approval no later than two weeks after such FERC approval; provided, however, that this time frame may be extended by the mutual consent of CCEBA and the Companies.

C. REMAINING TERMS AND CONDITIONS OF AGREEMENT

C.1 The Parties agree that this Agreement is reasonable, is in the public interest, and is in accordance with law and regulatory policy. This Agreement in no way constitutes a waiver or acceptance of the position of any Party concerning the requirements of S.C. Code Ann. § 58-41-20 or of any other issue in any future proceeding. This Agreement does not establish any precedent with respect to the issues resolved herein and in no way precludes any Party herein from advocating a differing position under S.C. Code Ann. § 58-41-20 or otherwise in any future proceeding.

C.2 ORS is charged with the duty to represent the public interest of South Carolina pursuant to S.C. Code § 58-4-10(B). S.C. Code Ann. § 58-4-10(B) reads in part:

... 'public interest' means the concerns of the using and consuming public with respect to public utility services, regardless of the class of customer and preservation of continued investment in and maintenance of utility facilities so as to provide reliable and high quality utility services.

ORS believes this Agreement reached among the Parties is in the public interest as defined above.

C.3 The Parties agree to cooperate in good faith with one another in recommending to the Commission that this Agreement be accepted and approved by the Commission as a fair, reasonable and full resolution of all issues currently pending in the above-captioned proceeding and to take no action inconsistent with its adoption by the Commission. The Parties agree to use reasonable efforts to defend and support any Commission order issued approving this Agreement and the terms and conditions contained herein.

C.4 This written Agreement contains the complete agreement of the Parties. There are no other terms or conditions to which the Parties have agreed to resolve the issues pending in this proceeding. Certain of the Parties to this Agreement are also parties to that Partial Settlement Agreement filed on October 21, 2019 in Docket No. 2019-185-E and Docket No. 2019-186-E (“SISC Settlement”), which is also under review by the parties to that SISC Settlement for modifications relating to the timing for completing the Solar Intergration Services Charge Independent Technical Review. Any future modifications to that SISC Settlement shall also be filed with the Commission in these Dockets for informational purposes. This Agreement integrates all discussions among the Parties into the terms of this written document. The Parties agree that by signing this Agreement, it will not constrain, inhibit or impair their arguments or positions held in future proceedings.

C.5 The Parties agree to offer this Agreement to the Commission in its entirety as a comprehensive stipulation which is the product of extensive negotiations between the Parties. As such, the Parties agree to ask the Commission approve this comprehensive agreement in its entirety without exception, modification, or additional provisions. If the Commission declines to approve this agreement in its entirety, then any Party desiring to do so may withdraw from this agreement without penalty.

C.6 The Parties represent that the terms of this Agreement are based upon full and accurate information known as of the date this Agreement is executed. If, after execution, but prior to a Commission decision on the merits of this proceeding, a Party is made aware of information that conflicts, nullifies, or is otherwise materially different than that information upon which this Agreement is based, that Party may withdraw from the Agreement with immediate written notice to every other Party.

C.7 This Agreement shall be effective upon execution of the Parties and shall be interpreted according to South Carolina law.

C.8 This Agreement shall bind and inure to the benefit of each of the signatories hereto and their representatives, predecessors, successors, assigns, agents, shareholders, officers, directors (in their individual and representative capacities), subsidiaries, affiliates, parent corporations, if any, joint ventures, heirs, executors, administrators, trustees, and attorneys.

C.9 The above terms and conditions fully represent the agreement of the Parties hereto. Therefore, each Party acknowledges its consent and agreement to this Agreement by authorizing its counsel to affix his or her signature to this document where indicated below. Counsel's signature represents his or her representation that his or her client has authorized the execution of the Agreement. Facsimile signatures and e-mail signatures shall be as effective as original signatures to bind any Party. This document may be signed in counterparts, with the various signature pages combined with the body of the document constituting an original and provable copy of this Agreement.

[PARTY SIGNATURES TO FOLLOW ON SEPARATE PAGES]

Representing Carolinas Clean Energy Business Association

A handwritten signature in black ink, reading "Richard L. Whitt". The signature is written in a cursive style with a horizontal line underneath it.

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**Representing South Carolina Coastal Conservation League and
Southern Alliance for Clean Energy**

A handwritten signature in black ink that reads "Kate Mixson". The signature is written in a cursive, flowing style.

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